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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,878	03/06/2002	Michael R. Schramm		2526

7590

06/16/2004

Michael R. Schramm
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EXAMINER

LAMB, BRENDA A

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,878

Applicant(s)

SCHRAMM, MICHAEL R.

Examiner

Brenda A Lamb

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 21-45 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

In response to the amendment filed by applicant on 2/19/2004 which canceled claims 1-20 and presented claims 21-45, the following restriction requirement is set forth below.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 21-27, drawn to kit-container, at least one work piece, at least one utensil and a colorant, classified in class 118, subclass 26.
- II. Claims 28-33, drawn to kit –container and at least one work piece from the following group of work pieces – colorable work piece, egg shaped work piece, edible work piece, a substantially egg shaped edible work piece and an egg, classified in class 426, subclass 106.
- III. Claims 34-39, drawn to kit – container and at least one utensil from the following group of utensils consisting of spoon, a wire egg dipper, pair of tongs and straw, classified in class 206, subclass 373.
- IV. Claims 40-45, drawn to kit – container and at least one colorant from the following group of colorants consisting of: a discrete unit of color concentrate, colorant powder, colorant pill and a colorant pill defining a colorant powder concentrate enclosed within a liquid soluble container, classified in class 206, subclass 1.8.

The inventions are distinct, each from the other because:

Group I-IV are each independent and distinct inventions. The kit of Group II does not require the colorant of Group IV or the at least one utensil of Group III or the combination of colorant and at least one utensil with the container sized to at least

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partially removably contain therein a combination of work piece, utensil and colorant of Group I. The kit of Group II can be used as shipping container with work piece contained therein with no colorant or utensil contained therein and without the container being sized to at least partially removably contain therein a combination of work piece, utensil and colorant. The kit of Group III does not require the work piece of Group II or the colorant of Group IV or the combination of a colorant and work piece with a container sized to at least partially removably contain therein the combination of the work piece, utensil and colorant of Group I. The Kit of Group III can be used to dispense a liquid using the straw without the container including a work piece or a colorant or without the container being sized to at least partially removably contain therein a combination of work piece, utensil and colorant. The Kit of Group IV does not require the work piece of Group II and at least one utensil of the kit of Group III or the combination of work piece and at least one utensil with a container sized to at least partially removably contain therein a combination of a work piece, utensil and colorant as set forth in Group I. The kit of Group IV can be used as a color dye dispenser without a work piece or utensil in the container or without a container being sized to at least partially removably contain therein a combination of a workpiece, utensil and colorant.

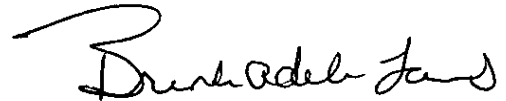
Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Lamb whose telephone number is (571) 272-1231. The examiner can normally be reached on Monday thru Tuesday and Thursday Friday with alternate Wednesdays off



BRENDA A. LAMB
PRIMARY EXAMINER

Lamb/LR
June 1, 2004